



INTERIOR BOARD OF INDIAN APPEALS

Sherwood Valley Band of Pomo Indians v. Sacramento Area Director,
Bureau of Indian Affairs

13 IBIA 130 (03/01/1985)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

SHERWOOD VALLEY BAND
OF POMO INDIANS,
Appellant

v.

AREA DIRECTOR, SACRAMENTO AREA
OFFICE, BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Accepting Proposed
: Settlement and Dismissing
: Appeal
:
:
: Docket No. IBIA 84-40-A
:
:
: March 1, 1985

On July 13, 1984, the Board of Indian Appeals (Board) received a notice of appeal from the Sherwood Valley Band of Pomo Indians (appellant). Appellant sought review of a November 9, 1983, decision of the Sacramento Area Director, Bureau of Indian Affairs (BIA) (appellee), refusing to continue to recognize Patricia Augustine as appellant's Chairperson. Ms. Augustine's term of office had expired in March 1983, without appellant being able to hold a valid new election.

On December 13, 1983, appellant filed an appeal of appellee's decision in accordance with 25 CFR Part 2. The administrative review functions under this part are currently delegated to the Deputy Assistant Secretary--Indian Affairs (Operations) (Deputy Assistant Secretary). Appellant states that its appeal brief was filed on January 13, 1984. When it received no response to either document, appellant requested on March 6, 1984, that the appeal be transferred to the Board in accordance with BIA regulations in 25 CFR 2.19(a)(2). Again, appellant received no response.

After an additional three months, appellant on July 9, 1984, filed a notice of appeal with the Board. By order dated July 17, 1984, the Board made a preliminary determination that it had jurisdiction over the matter because of the Deputy Assistant Secretary's failure to issue a decision within 30 days after the appeal became ripe. 25 CFR 2.19. The Board requested that the administrative record be forwarded to it within 30 days. The record was received on September 28, 1984.

No briefs were filed in this appeal. Instead, the parties sought a stay of proceedings so that they could pursue settlement negotiations. On February 25, 1985, the Board received a joint motion from the parties stating that they had reached a settlement. The settlement was in the form of a draft memorandum finding that appellant's tribal officials should have been recognized. Appellee states that the Deputy Assistant Secretary will sign this draft memorandum. The parties, therefore, seek to have this case remanded to the Deputy Assistant Secretary so that he may issue the draft memorandum.

The Board accepts the draft memorandum as a proposed settlement of this matter. Therefore, in accordance with the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the November 9, 1983, decision of the Sacramento Area Director is vacated, this appeal is dismissed without prejudice, and the case is remanded to the Deputy Assistant Secretary--Indian Affairs (Operations) for the issuance of the draft memorandum presented to the Board.

//original signed

Bernard V. Parrette
Chief Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge

//original signed

Anne Poindexter Lewis
Administrative Judge